

A SEVENTH

ADDRESS

TO THE

FREE CITIZENS,

AND

FREE-HOLDERS,

OF THE

CITY of DUBLIN.



DUBLIN:

Printed for JAMES KELBURN in
George's-Lane, 1748.

[Price, three half Pence.]

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BRETHREN, and FELLOW-CITIZENS,

HAVING endeavored to give you a View of the first, or *Monarchical Estate*, and the *Extent* and *Bounds* of the King's *Prerogative*, in my *last Address*, with the Proofs of my principal Assertions, my *sixth*, I come now to the second Head proposed, namely, explaining the second, or *Aristocratical Estate* of our Government.

BUT before I can come to that Particular, I must first give some general Account of our national Councils, by whatever Appellations they have been dignified, or known.

THO'

Tho' no Record be preserved, to shew the exact Period of Time, when our Form of Government commenced, yet, it is evident, from our most antient Histories and Records, that no supreme Magistrate, since the Institution of the Regal Office, ever governed, legally and peaceably, without a Council; which appears to have consisted, in the earliest Ages, of Men renowned for *Wisdom*, and *Virtue*; the cardinal Qualities of Legislators and Judges.

THIS COUNCIL, before the *Norman Invasion*, was called MICHAELS INOTH, or MICKLE SYNOD, MICHAEL GEMOT, or MICKLE MOTE, WITTENA GEMOTE; that is, the *Great Synod, Grand Court, Convention, or Council*, or the *Council of Sages* of the Realm. Sometimes, COMITIA, ASSISA, COMMUNE CONCILIIUM REGNI, GENERALE CONCILIIUM REGNI, or CONCILIIUM REGNI, *The Assembly, the Assize or Session, the Common-Council, General-Council, or Council* of the Realm. And, it is demonstrably and incontestably true, that no lawful Act of State ever has, or ever can be made, by the supreme Magistrate, or King, in his public and political Capacity, but by and with the *Advice and Consent* of that *Assembly, Convention, Court, or Council*; by whatsoever Name, or Titule it may, or shall, be distinguished. This is, beyond Contradiction, evinced, by all the authentic Records of Acts of State; which, tho' executed by the King, were, and are, ever to be *moved, or advised and consented to*, by the *States of the People*, distinguished by, *Magnates, Optimates, Seniores, Senatores, Barones*, &c. Nobles, Elders, or *Sages, Senators, Barons*, &c. And by *Populus, Communitas, Liberi Homines*, &c. By the People, or Commonalty, or Freemen of the Realm that is, all Men, who are not of the *second Estate*, that is Lords of Parliament, are supposed to be of the House of Commons, either in Person, as formerly, or by Representation, as at present; partly, Coagmentative; partly Representative. For without the *ADVICE and CONSENT* of *both* these Estates, or the Majority of *each*, duly, regularly convened, and freely sitting and deliberating, no Law can be made, repealed or altered.



I SHALL trouble you but with two Proofs of this Assertion, out of many that might be brought, beyond the *Norman Invasion*. King *Canute* granted certain Privileges to the Abby of *St. Edmund's Bury*, in a Council, which consisted of Archbishops, Bishops, Abbots, Dukes, Earls, with a vast many Knights, and a great Multitude of People, unanimously Consenting to this Act. And in *Edward the Confessor's* Reign, Tythes were granted to the Church, by the King, Barons and People. The Conduct of *William* the first serves to illustrate the Truth of this Proposition. This *Invader* possessed himself of the Title and Power of *absolute Monarchy*, by Force of Arms. But he wisely judged, that though he might subjugate the *Persons* of the People, while he was able to keep up a Superior, *Military* Force, he yet, could never hope, by coercive means, to subdue their *Minds*: For, the People had too long enjoyed the Blessings of a Free, Popular Government, to be insensible of its Sweetness, or regardless, or indifferent in preserving such a Constitution. And it is remarkable, that the *English* never could, and probably never may, submit to any Inroad on their Liberties; but where all the *Forms* of the Government were kept up. They may, by *Fraud*, but never will, by *Force*, be lead into Slavery.

WILLIAM the first, who had Sagacity enough to discern the *Genius* of the People; wisely judged, it would be Madness to oppose it, openly. He contented himself with glutting his *Mercenaries* and *Vassals*, with the spoils of the Country; but gave them the Lands of the Conquished to be possessed by the same Tenures, and upon the same Terms, that the *English* had before enjoyed them. And, when he had established them, he submitted to the Constitution of the Country, called *FREE COMMON-COUNCILS*, or, as they have since been called, *PARLIAMENTS*, and restored the Government to the State in which, upon the Inquisition of *twelve Sworn Men* in every County, he found it had been, before his Invasion: For in his Law, or *MAGNA CHARTA*, cited in the sixth Address, p. 4. now passed almost seven hundred Years, he, in one Phrase, asserts the *Hereditary*

ditary Freedom of the Subject, and the Rights of the Common-Council, as well, as his own Power.

SOME slavish Opponents of our Form of Parliaments weakly contend for the exclusion of the Commons from that Council, by attempting to produce Precedents from antient Records, to shew, that the Kings often held Councils, in which sundry Matters were transacted, to which the Commons were not called; in which, consequently, they were neither aiding, nor assisting, much less consenting. To prove this Assertion, some Instances are partially given. But whoever will take a fair and impartial View of these Affairs, will find, that these Instances serve only to shew, that the Kings called different Councils, as different Emergencies required, of such Persons, as were best qualified to debate, or advise upon the particular Occasions. As for Example;

IN Matters relating to the *Crown*, alone, the *Nobles* only, or the King's *Tenants in Chief*, who were bound to attend his Court, and to *Advise*, were called to Council.

IN Matters relating to the *Church*, the *Clergy* were called to this Council of Lords; and sometimes, alone.

IN Matters relating to *Aids*, and the *imposing Taxes*, for carrying on Wars, such as were obliged to contribute to such *Aids*, or *Taxes*, were called to *Consent*, to ascertain and levy the Quantity, or Sum.

BUT in Matters concerning the *public Liberties*, or *Common-Rights*, all Ranks and Degrees of Men, above *Bondsmen*, or *Vassals*, were to be convened, and consulted; and in such Conventions, it is evident, the *Commons* must, at all times, have been the most Powerful, as the most Numerous Body.

BEFORE I come to touch upon either Estate, of *Lords* or *Commons*, separately, I judge it expedient to give you a summary View of the antient Councils.

THE first great Council, established, by our *Saxon* Ancestors, in *England*, consisted of *Nobles* and *Freemen* who met, and, in Council, *communed* together at certain stated Times and Places. Before *CHRISTIANITY*, they met, at the New and Full Moon. Afterwards, at the
Feast

Feasts of the *Nativity*, *Easter*, and *Pentecost*. When they chose a King, he was called to preside in their Councils. And the convoking all Councils, on extraordinary Occasions, was, then, committed to him. For about two Centuries, our great Councils, called, as before observed, *Mickle-mote*, or *Wittenag-mote*, consisted of King, Nobles and Freeman. Then the Bishops were admitted; not as a third Estate, but as Men supposed to be endowed with all the Qualities, that could enoble a Man, *Wisdom*, *Virtue* and *Religion*; and therefore, most fit to advise Kings, and Legislators. After their Admission, they found means to invest them with Legislative Power. For we are informed of Acts, passed by a *Common-Council*, consisting, *as well of the Clergy, as of the People*; others, *by the Advice and Decree of the Bishops, of all the Senators, and of the wisest Elders of the People*; others, *by the Advice of the Sages*; and so forth. Afterwards, all Acts were passed, in Council, by the King, Barons, and People.

ALL Matters, of what kind soever, relating to the Welfare of the State, or, even, of any Individual, was brought under the Cognizance of this Council. Offenders, of a Public, as well as private Nature, were punished; Grievances were removed; Exigencies and Inconveniences provided for; Leagues and Alliances with foreign States were framed; Laws were passed, for the good Government and the Security of the Lives, Liberties and Properties of the People, and for the Establishment and Regulation of Religion; and all Officers of the State were elected in, and by, the *Mickle-mote*, or *Wittenagemote*.

THIS *Grand Council* was ever held sacred, and all the Members had *Safe pass* in going to, or returning from, the Assembly; unless such, as were *notorious* Offenders.

THEIR Place of meeting was, at first, in the open Fields. And, tho' it was called *the Council of Sages*, or wise Men, yet every Freeman, that would, had an unquestionable Right, to be present, and offer any Motion, or Proposition.

sition to the Assembly; or to express his Approbation, or Disapprobation of any, that was offered, or debated; and to pronounce his *Consent*, or his *Negative*, in much the same Manner; as it is now done in our Parliaments.

BUT, it being found, in Process of Time, very inconvenient for all the People of the Realm, to meet in this Manner; and impossible, from their growing Multitude, to transact Affairs, to make their Sentiments generally known, or, even, to Collect the Suffrages of the Assembly, with any Degree of Regularity, or Certainty; it was judged expedient, to *limit* and *ascertain* the Number of the Council, as well *Nobles*, as *Commons*: For, the Number, as well, as the Distinction of each, became very uncertain, and precarious.

THE *Saxon* Nobility consisted of several Classes, denominated from the particular Virtue, by and for which they were enobled. Every Man, who distinguished himself, by a Course of wise and virtuous Actions, particularly, by steady Wisdom in the Councils, or by Prowess and Valor in the Field, never failed of the just Reward of his Merit. He ranked among the Nobility; and the Honor was allowed to descend to his Posterity, so long as they appeared to possess the Virtues and other good Qualities of their Fathers, but no longer. From among these the King was elected, and the Titule and Office descended to the Heirs, as that of a Nobleman did. This high Reward raised such a Spirit of Emulation, that great Numbers contended for, and, in turn, obtained the glorious Prize. Such became the immediate, attendant Council of the King, in all Matters of Government; and the chief Judges, in Law and Equity: And, of such alone, was his Court composed. Virtue alone could, then, raise a Man to *Peerage*, or a *Throne*.

THE *Saxon* *Freemen* were all such, as held *Allodial*, or Free and Independent, Estates; and were, in their Persons and Properties, Subject to no Power, Compulsion, or Restraint, but such as was imposed by Laws, made by their own *Free and Voluntary Consent*. This Right

Right ran in Descent, like the Nobility. In short, all those, that were not Bound to any *Vassallage* to a Lord, as some were in those Days; had a Right to Vote in the making Laws, and in the electing the Executioners of these Laws; and were *Freemen*: These were a very Numerous, and a very considerable Body; And were divided into three Classes, as now intended in our House of Commons, but of different Denominations.

It is easy, to conceive the Difficulty of assembling such a Number; the Detriment, the Public must sustain by so many being, unnecessarily, taken up, in the Council; and the almost impossibility, of keeping such a Multitude together, for the Time necessary for transacting the legislative Affairs of the Nation, or of conducting them, and gathering their Suffrages, with Regularity.

THESE Difficulties and Inconveniencies were obviated, without any Infringement, or Abridgement of the Rights or Privileges of any Individual, and for the general Emolument of the whole Community; by establishing a certain, *legal Qualification* for the Nobility, and by empowering the *Freemen* to *choose*, from among themselves, *Representatives*, to serve them in the Council; a certain Number from every Division of the Kingdom, which was, or should be, made, into Counties, Cities, or Burroughs. Thus a regular Form and Method of holding the *Great Council* was instituted, Free from Popular Confusion, and every other Objection.

AFTER the *Norman Invasion*, the Name of the national Council was changed, to that of *Parliament*, or, as some of the Law-writers call it, THE HIGH COURT OF PARLIAMENT; that is, the Court of *Free-Speech*; for, such is the import of the Word, *Parliament*: The Members being accountable to *no Man*, for what passes there.

THIS Court consists of the KING, in his *Political Capacity*, THE LORDS, and THE COMMONS of the Realm; as did the *Mickle-mote*. But, instead of the *Aggregate* Body, as in the later, here is the *Representative* only; which forms the *Great Body Corporate* and *Politick* of the Realm.

THE

THE *three Estates* formerly sat together. But it was found expedient, first, to remove the King, as his Power and Influence augmented; that his Presence may not restrain, or bias the Members in their Debates; which must ever be carried on, with the utmost Openness and Freedom. After that, the *two Estates of Lords and Commons* sat together, with one Common Speaker at their Head. But this, likewise, was found inexpedient, as the Members of either Estate claimed separate and distinct Powers and Privileges from the other. So they parted; and sat, ever since, in two different Houses, with a Speaker proper to each; reserving an occasional Intercourse, by way of Messages and Conferences, to and with each other.

THESE premised, I shall now endeavour to shew, of what Members each Estate is to consist, and how they are severally appointed, or elected, in the proposed Order; with the separate Powers and Privileges of each, and the joint Powers of both.

OF the SECOND, or Aristocratical ESTATE, called,
The HOUSE of PEERS.

THE Founders of all the European Monarchies were, for the most part, foreign *Invaders and Conquerors*; who established a kind of mixed Government, upon the Model of the Military, with a Mixture of Civil Customs; and divided the Land of the vanquished, between the Officers and Soldiers, reserving certain *Fees*, or *Feodal Services*, to the Conqueror.

WHEN *William* the first invaded *England*, he changed the Nature of their Tentures, which were then *Allodial*, or Free and Independent, to *Feodal*, that is, subject to certain *Fees*, or *Services*; which made their Estates depend upon their Allegiance to him. For he seized the Estates of all, that he found in Arms against him; and conferred them on his *Normans*. And all, that were not in Arms against him, he compelled, to take out Patents of their Lands, to be held from the Crown, by *Fees*.

Fees, or *Service*, of one kind or other. In order to effect this more compleatly, he had a general Survey of the whole Lands of the Kingdom, made and registred; which was called *Domesday*: Half the conquered Territories he took to himself: This was looked upon, as the *sacred Patrimony* of the Prince; and is called, in the Law Books, the *King's Land*, or the *antient Demesne* of the Crown.

THE rest was divided among the Military Men, in Proportionate Lots, according to their several Ranks, or Classes in the Army; for their Valor and Services in which, they were before dignified with the Honorable Titules of *Dukes*, *Earls*, *Barons*, &c. Dukes, then, after the Conquest, were made Lords of Provinces; Earls, or Counts, of Counties; Barons, of Baronies, &c. In Consequence of which Grant, as of common Right, every Grantee was obliged to attend on the Granter's Person; to aid him with faithful Counsel; and, in short, to render him all other usual, or reserved *Feodal Duties* and Services whatsoever.

EVER since, all Lands are said to be held, mediately, or immediately, from the Crown: For, they certainly were all granted to the Soldiery, and Natives, as before observed, to be held of the King, by certain stipulated Services, for the Defence and Preservation of the Government: For, all antient, original Grants were conditional, not absolute.

GRANTS of this Kind were called *Fiefs*: They were, originally, and that, for the most Part, universally, but for a Term of Years, or perhaps for Life: But an usurping King of *France*, in order to get his Titule to the Crown established, by the People; proposed to, them the making their *Fiefs* hereditary, with the desired Success.

THIS Policy the *Norman Usurper* observed in *England*; as one Powerful means, of engaging all the *Nobles* in his Interest. And, it is likely, he found this Improvement of the *Feodal Tenures*, his best Security and Support; and, probably, that his conquering Army would not be contented to accept their *Debentures*, upon worse Terms, than the *feodal Tenures* were then established, in *Normandy* and other Parts of *France*.

FROM

FROM this *Æra*, I chuse to trace the state of the *Peerage* of *England*. And, I find, it is generally allowed, that these Honors were, since, held, or obtained, by *Tenure*, by *Writ*, or by *Patent*.

The first was the only Titule to *Peerage*, known in *England*, till the later end of the Reign of *Henry* the third. The attendance of the *Nobles* in Parliament was but a *Feodal Service*; which, by the *Tenure* of their *Lands*, and the Oath of Homage they had taken, they were bound to render unto the King, as to the sovereign Lord of their *Fiefs*.

EVERY PEER, then, attending the King's Court, or sitting in Parliament, attended, or sat, in right of his *Barony*; and, tho' he had received his first Titule from the Crown, and was actually a Counsellor of the Crown; yet was he, as much a *Trustee*, and a *Representative* in Parliament, for his *Barony*; and, therefore, for the whole COMMON-WEALTH; as a Knight of a Shire, a Citizen, or a Burgeſs, is, for the County, City, or Burrough, for which he is chosen.

HENRY the third was the first King, we find, who altered this most antient and excellent Titule of *Peers* to a Seat in Parliament. For, when he became victorious over the *Barons*, who opposed his Tyranny, he took upon him, to cull the *Peers*; admitting, or summoning some, by *Writ*, who had no Right by *Tenure*; and excluding such of the antient *Barons* by *Tenure*, as he judged unfit for his black Purposes. This Method continued, till the Reign of *Richard* the Second; who introduced the third Sort of *Peers*, by a new Method of creating them, by *Letters Patent*.

THO' the Titule of *Peer*, or *Baron* be now, by common Usage, appropriated to Lords of Parliament only; yet, were, each of them, formerly used, to denote any Class of *Freemen*. The Word, PEER, signifies a Man of equal Condition; so that every Man has his *Peer*, in Law. And the *Freemen* of several Cities and Ports in *England*, were, once, called *Barons*. But the true Sense of these Words, is to be taken from the Law-Writers; and, from them, the later Titule will appear, to be

be merely *Feodal*, and to signify the *Tenants in Chief* of the Crown, or of any Lord: The former of which were distinguished, in antient Charters, from the *Tenants of other Lords*, by calling them, *the King's Barons*.

NO KINGDOM, of *Gothic* Institution, can be supposed to Subsist, without *Barons* and *Baronies*. They are reckoned essential, to the Constitution of a Kingdom; as Free-holders are, to that of a Barony, or Manor. All Ranks of Men are to be tried by their *Peers*, or *Equals*. And, as the Judicial Acts of a Baron, or Lord of a Manor, are to be done in his Court, which cannot be held, without Free-holders; every Lord of a Manor was necessitated, to provide his Barony with a sufficient number of Free-holders.

THE *Barons* of Parliament were such only, as held their Lands, as *Military Tenants*, from the King; not as from a private Person, or Lord, but from his Majesty, in his public, political Capacity, by their *Barony*: Which implied a higher, and more noble Service, than any of the ordinary Tenures; the principal part of which was, to attend the King in Person, whensoever summoned, and to give him faithfull Counsel.

HOWEVER honorable and beneficial this kind of Service be now found, it was once deemed troublesome and burdensome; and, as such, complained of, even, by the *Clergy*; who have, since, looked upon the Baronies, annexed to their *Bishopricks*, as very advantageous: For they, formerly, petitioned to be discharged from the Service, suggesting, that they held no Land by *Barony*, or *Baronage*.

BARONAGE by Tenure, was then a *Feodal* Institution. The Service, imposed upon the original Grantees, which was the Foundation of the Baronage; must have been done, by their Consent: And so, the *antient Creation* of Barons may, not improperly, be deemed an *Ordinance*, or *Act of Council*, or *Parliament*; being done by common Consent of all Parties; as is declared in the fifty-eighth Law of *William* the first. This makes it more than

than Probable, that the King had, then, no way of increasing the number of Barons of Parliament, but by lopping off, and granting away some of the *Royal Demesne*, which, by the Law, and the Coronation Oath, the King might not do.

THE principal Privileges, of the Persons of *Peers*, are founded upon their being *Feodal Barons*. For, the reason, why they may not be arrested by a Subject, is evidently this; that they are supposed, to be attendant *Council* to the *Crown*; and, that sufficient *Effects* may always be found, on the *Demesne* of their Baronies, to be *distraigned* for any Debt. And they are exempted from serving on Juries and Inquests, by the pre-engagement of their *Feodal Services* to the *Crown*. This later Privilege, was claimed, by some of the Barons, that were not called to Parliament by *Henry the third*. For, tho' every Lord of Parliament, was, before this King's confused Reign, a *Baron*; yet, after, every *Baron* was not a Lord of Parliament: For, none but such, as had been summoned by Writ, which were such only as the King chose, were admitted.

THIS leads me to the second Class of *Peers*.

WHILE the Baronage Subsisted on the *Feodal Footing*, every Baron had a Right to be summoned to Parliament. But many, growing weary of the Trouble of attending, before Ministers learned to make their Places profitable; and therefore, desiring to be excused, were not summoned. And, when the Difference arose between *Henry the third* and the Barons, and he conquered them; he summoned none, but his Favourites, and those, probably, the most rich and powerfull, more out of Fear, than Love; whom he stiled *Barones Majores*, the greater Barons. This, probably thro' mistake, first gave Rise, to the calling Men to the *House of Peers*, by Writ, who were not *Barons*. Tho', by the first Innovation of *Henry the third*, it appears, that he did not take upon him to create Men *Barons*, or to call Men to Parliament, as *Peers*; who were not Barons before: For, he might have known, that, in the later Case, his

Writ

Writ might avail nothing; because, none but such, as held *Feodal Tenures*, were obliged to attend upon such *Summons*.

THE Persons, thus called, by *Writ*, to Parliament, were, by no means, created *Peers*; and were only called for *Advice*, or *Consultaion* with the King and his Barons; which may be done without being made, thereby, a Lord of Parliament: For, to this Effect, the *Judges*, *Masters in Chancery*, *Serjeants at Law*, and other *Assistants* for Counsel, are Summoned to every Session.

As to the *third* sort of *Peers*, those created by Patent; I find, that the first King, who took upon him to create *Peers*, in this manner; was that weak and wicked Prince, *Richard* the second. Yet, upwards of thirty, of his Creation, were, by *Act of Parliament*. And it appears, by all the other Patents for Honors, granted by him and his Successors; that most of them were, in fact, but *Recognitions* of suppressed Feodal Titules of Honor, not new Creations. For, even this King, judging Creations, without the Advice and Consent of Parliament, illegal, or invalid; had his Uncle, whom, in the first Year of his Reign, he created Earl of *Bucks*, without consulting his Parliament; created anew, in the fourteenth of his Reign, by *Act of Parliament*; and, as is set forth in the Patent, *for the Security of his Uncle*. But it is most remarkable, that, except some such *Recognitions*, and a very few new Grants of *feodal Honors*, that *escheated*; that is, by forfeiture, or for want of Heirs, fell into the Hands of the Crown; all the *Peers*, that were created in *England*, between the eleventh of *Edward* the third, and the first of *Henry* the seventh, were created by *Act of Parliament*: Nay, the former King applied to the Parliament, and had the Lords severally asked their respective Consents, to enable him to make his Son-in-Law, a Peer of *England*; he being a Foreigner.

THE *best* and *greatest* of our Kings, always most strictly, most inviolably adhered to, and preserved, the Constitution. Accordingly, we find, all the Patents for *Peerage* passed

passed by *Henry* the fifth, except two, were passed in due Form, in full Parliament; and particularly those of his two Brothers, creating the one Earl of *Kendal* and Duke of *Bedford*; the other, Earl of *Pembroke* and Duke of *Gloucester*. And this, at the same time, that that King exerted his just Prerogative, in granting the later Brother the *Feodal* County of *Richmond*.

IN the Reign of *Henry* the sixth, upwards of twenty Patents for Peerage were likewise passed in Parliament. And,

IN the Reign of *Edward* the fourth, twelve were passed, in like manner. But there appears one Patent, in this Reign, for the creating the King's *Nephew* Earl of *Lincoln*; in which it does not appear, that the Parliament was consulted: For which reason, this extraordinary Clause, and the first of the kind, is artfully inserted; NOTWITHSTANDING *any Custom or Usage to the contrary*. Yet this Breach of the Constitution was not, by this NON OBSTANTE, confirmed: For all the Barons, created afterwards, till the first of *Henry* the seventh, had their Patents granted, by AUTHORITY of PARLIAMENT; and, not otherwise.

FOR sometime before the Reign of *Henry* the seventh, the greatest Property, and, consequently, the Ballance of Power, in the *three Estates*, rested in the Lords. For, since the *Norman* Invasion, all Places of any considerable Profit, or Trust, in the State, were given to the Lords only. Nay, some were overcharged with inconsistent Pluralities. One Man was, at the same time, an Archbishop, a Legate, and a Lord Chief Justice; another, a Bishop, a Chancellor, a Legate, and a Chief Justice, and the like. The Crown was never, before this Reign, fully able to create a Lord of Parliament, without the Consent of Parliament. But, since, the Lords being set at Liberty, to transfer and alienate their Estates; and the Commons being artfully raised and preferred, in pure Opposition to them; Power has shifted, with the Possession of Lands and Places, from the Lords, to the Commons; who, for the Exchange, connived at the Incroachment,

croachment, and since, have been able to hold the Ballance, against the *Prerogative*, and against the *Peers*. From this time, the Crown has constantly Claimed the sole Right of creating *Peers*, of all Denominations. But, by what Law it was vested in the Crown, does not, that I can find, appear. It is certain, this is one of the greatest Changes, that our Constitution has, by the Hands of Tyrants, or Time, undergone. For, tho' the Commons were restored to their just Power; Yet the Constitution was greatly injured. The Peerage did not become more noble, or honorable, by being made the Gift of a single Person, instead of the Parliament. And it is also certain, that the state of Peerage, in general, suffered, by this new Dispensation. For, a Titule of Honor has been known to be, in former Ages, actually *venal*: And what was once the just, distinguishing Reward of real Merit, was made the sordid Wages of base Servility, and shameful Prostitution. The *Peers* themselves were, by this, exposed to intolerable Injuries and Hardships; especially, in this Instance; that *Lords* being to be Tried, only by their *Peers*, were left in a worse state than Commoners; when the Crown might name their *Jury*, or any part of it, and leave them no Right to except to any of the Pannel. Tho' this Power of creating *Peers* at Pleasure, has not been directly opposed, by Parliament, or *Peers*, since *Henry* the seventh's Reign, yet, it has, in some Reigns, been excessively murmured at, and complained of; particularly, in those of the *Stuart* Family, who were all very lavish of Titules of Honor. It has been an Article in the Impeachment of some great and favorite Ministers, in two Reigns; and it is certain, that a very moderate and rational Exercise of that sole, *Peer-creating* Power, can alone make it tolerable. For, as the number of *Feodal* Tenures were determined, the number of *Peers*, as well, as of Commons, were limited and ascertained. And, if the King may create, as many *Peers*, as he will, it is not hard to conceive the possibility of making all the Commons, *Peers*, which would reduce the whole Government to Anarchy, or to an *Aristocracy*.

THE *second Estate*, or House of *Peers*, now, consists of Noblemen, by Descent, or Creation; as Dukes, Mar-

quisses, Earls, Viscounts and Barons: These are called, *Lords Temporal*. And of Arch-Bishops and Bishops, who hold in right of their Baronies, by Succession. These are called, *The Lords Spiritual*. They were formerly elected; but, since *Henry the eighth's* time, the form of an Election only, is kept up; for the Deans and Chapters are obliged to chuse the Person the King nominates in his Writ of *Congè D'elire*: How agreeable to *MAGNA CHARTA*, their *Lordships* may judge.

THO' the Peers be of different Ranks, in point of Titules of honor; yet, they are all *PARES*, Peers, or Equals. For the Speech and Vote of the inferior Degree is equally free and valid with the Superior, in all public Acts.

THE Dignity of *Peerage* is indefeazable. For it cannot be, by the Possessor, alienated, transfered, or surrendered to the Crown. It is forfeited in case of Treason, &c. And may be taken away, or extinguished, as well as granted by Act of Parliament. *Peers*, who had lost their Estates, as unable to support the Dignity of *Peerage*, and to prevent the Abuse of their Privilege, or their being a Burden to the Public, were degraded by Parliament: As was the Duke of *Bedford* in the Reign of *Edward the fourth*: As he was not a Creature of the Prerogative, the King, alone, could not divest him of his Honors: Nor is it fit it should be otherwise; since the whole Common-Wealth is deeply interested in the *Peerage* of every Lord. Every *Peer* of the Realm is deemed a Kinsman and Counsellor to the Crown, and is, by the King stiled, *his Cousin and Counsellor*. In their Judicial Acts, and in answer to Bills in Chancery, *Peers* are to depose upon their *Honor*, not upon *Oath*. But are equally punishable with Commoners, for a Breach of *Oath*, in like Cases. But, where *Affidavit* is to be made or Evidence given, a *Peer* must be Sworn. Where *Peer* is Plaintiff, there must be two, or more *Knights* impannelled on the Jury. *Peers* are exempted from serving on Juries and Inquests, for Reasons before given. Reporting slanderous Tales of a *Peer* is punished by imprisonment. A Lord is not to be bound over to keep the Peace.

Peace; instead of Surety, his Promise to keep the Peace, only, is required. *Peers* cannot be taken, or out-lawed, in civil Causes: For the Person of a *Peer* is, at all times, privileged from all Arrests; for Reasons before given; unless for Treason, Felony, or Breach of the Peace. But, his Chattels may be Seised, and his Estate Sequestered for Debt. Lords are allowed the benefit of Clergy, where all others are expressly excluded.

A *Peer* may be indicted, or presented, by any Grand Jury; but all Criminals being triable only by their *Peers*, or Equals; *Lords* are to be Tried by *Lords in Parliament* only; upon an Indictment first found by a Grand Jury, or an Impeachment by the Commons for Treason, Murder, Felony, or the like. But, upon an Appeal, in Murder, or Felony, *Peers* are to be Tried by Free-holders.

BISHOPS have Privilege of Parliament, not of Nobility, or *Peerage*. Tho' they sit and Vote, to all Intents and Purposes, as Lords of Parliament, yet they are not looked upon as ennobled; they are in all Cases, except upon Attainder, or Impeachment, to be Tried by a Petty Jury. Nor can a *Bishop* give his Vote, in the Trial of any *Peer*, or other Person, for a *capital Crime*, in the House of Lords.

THE Lords, Spiritual and Temporal, in antient times, composed the King's Court. And made up the first established Court of Judicature. For, Fines were levied, and Writs of Right determined therein. We have a remarkable Instance of the Judicature of this Court, in a Cause between the two Kings of *Navar* and *Castile*, in the Reign of *Henry* the second. The Trial is said to have been by *Plea*, or if need required, by *Combat*. The King presided in the Council, and pronounced Sentence, upon the Judgment of the *Bishops*, *Earls* and *Barons*. But, now, no Trial is brought, originally, before the House of Lords; except that of *Peers*, Indicted for Capital Crimes, by Grand Juries, or Persons impeached, by the Commons. But Appeals from all the Inferior Courts are finally determinable there: whence the House of *Peers* is deemed the supreme Court of Judicature.

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THE House of Peers, or Lords, is called the UPPER-HOUSES OF PARLIAMENT, the GRAND COUNCIL; or the HEREDITARY GRAND COUNCIL OF THE CROWN: Being not only liable to be called to Counsel the Crown, occasionally, but obliged, upon every Emergency, to offer it.

THE Legislative Power of the Lords extends to the framing, and passing Bills, for all Purposes of good Government; excepting the granting *Taxes*, or *Subsidies*; such Bills must take rise in the Commons only; their Assent and Consent being of *original Right*, first to be obtained. But, let a Bill take rise in whichsoever of the Houses, it must have the Concurrence of the other, before it can be presented for the Royal Assent.

It seems to me a mistaken and destructive Notion, which some Law Writers advance; *that Peers represent their own Persons, solely*: For, I think it is very evident, that all Power and Preeminence is granted to *Peers*, for the public good alone, and, that, tho' they are not delegated by any Body of Men; yet, they are still severally Representatives, or Trustees, for their Counties, or Baronies, and Guardians of the whole Realm. Their Power is certainly *Fiduciary*. They are, at least, obliged to be *watchfull*, that they may be the better able to *advise* the King: As they are answerable for any unjust conduct of the Crown, against which they did not properly remonstrate; and are empowered and bound, by *Magna Charta*, to see Right and Justice done equally to all the Subjects.

THE Lords are all, by Right, to be, severally, summoned by the King, to every Parliament; and they are deprived of their Privilege if any be omitted.

THEY are to be attended, by the Judges, Masters in Chancery, and such other Men learned in the Law, as the King, or the House thinks fit to order to attend, for their *Advice*, not to *Vote*, every Session.

THE Lords are now, as much a separate and distinct Estate, from the Commons, as the King, from the Lords. Every Lord, then, having his proper share in the Legislature, is not to interfere with the Proceedings of the Commons, in any Instance, especially in the Elections of the Members of that House.

PEERS are exempted from all Actions and vexatious Suits at Law, for fourteen Days before the Parliament Sits, during the Session, and for fourteen Days after the Session is Closed. But if any Plaintiff be obstructed in Prosecuting any Suit, he has commenced, by Privilege of Parliament; he is not to be debarred by any Statute of Limitation; nor is his Suit discontinued: For, immediately after the Session, he may proceed to Judgment and Execution, as if Privilege had not intervened. And moreover, the Goods and Chattles of a Lord, or Member, of Parliament may be distrained and sold for the Arrears of Rent, Duty or Service, even in the time of Privilege. Nor has any Lord, or Member, of Parliament, any Privilege, in Suits, or Actions commenced against him, as a Trustee, Guardian, Executor, or Administrator; nor in Case of Ejectments for non-payment of Rent; or in any Suit commenced for wilfully holding Lands, over the Term of the Lease; or for regaining Possession of Lands, Goods, or Chattles, by Injunction, or Replevin; of which any Person has been dispossessed, by Force, or Fraud.

PEERS, upon taking their Seats in Parliament, take the Oaths of Allegiance, Supremacy and Abjuration, and make and Subscribe the Declaration; as well, as the Commons. But, in all other Cases, except where they are examined, as Witnesses, *Peers* declare upon their honor, not upon Oath.

IN all other Respects, a Lord is upon a Par, with every Commoner, or ordinary Subject; and, as much, and as effectually Bound and controled, by Laws, as the meanest. And, however dignified, or raised by Titules of Honor, and Places of Profit, as he may be; by the Royal Patent, or by the canting, unintelligible Jargon of Heralds, his being really and truly respected and honored, by sensible and Free men, must still depend upon his own Deportment alone; which, if *Noble*, *immoles*, and procures Respect and Honor to every Man.

FOR this Prize, every good Man, however distinguished by *legal* Titules, must constantly contend. It is the Part of every good Citizen, to be ready to offer all

all Men the just Reward of their Virtues. And, as in just Obedience to Law, you render to every Man his due; *Tribute* to whom *Tribute*, and *Fear* to whom *Fear* is due; so, by the same Rule, as well, as in Justice, and, indeed, in good Policy, you must strictly render *Honor* to whom *Honor*.

THE greatest Assertor of Christian Liberty, confesses, *it is not lawful to speak Evil of the Rulers of God's People*: But he thought it a sufficient Apology, for his rebuking one of the *biggest* and most honorable Officers, that he had *stripped* himself of the Dignity of his Office, by committing a Breach of Liberty, and the Law: For, in so doing, that Officer divested himself of *Judgment, Justice and Mercy*, the only true, distinguishing Characteristics, or Badges of his Office; and became a *Tyrant*. Whereupon the great Apostles says, *he wist*, that is, knew not, *that he was the high Priest*.

It is, unquestionably, necessary, to keep up a just Subordination of the Members in civil Society. The Portion of Respect and Honor, the Law requires to be paid to every Officer, or Dignitary of the State, becomes a Debt, incumbent on every good Subject to pay. But it is a base kind of *Idolatry*, a most servile Prostitution, to reverence bad Men, merely, for their *outward Trappings*. VIRTUE ennobles, as Vice degrades, all Men. Let that be the unerring Measure and Rule of your Veneration to Mankind, within the Bounds above laid down: For, though you be not able, of your selves, to divest a bad Man of his *legal Rank*, or Title of Honor; yet, if any such should ever appear among the Nobles of these Kingdoms, you may, and ought, on all Occasions, to distinguish between his public and his private Capacity; and shew him, that his *Vices*, if such he has, must justly bring him, in his private Character, into extreme Contempt, in your Judgment; tho' you hold yourselves bound to reverence his political Capacity.

If this Spirit had been, always properly maintained and exerted, we should have had fewer wicked Men, in general, and particularly, in Station, than we have had, in passed Ages. Nothing less, than a general Depravity

pravity, could prompt this kind of Men to demand, or Inferiors to grant them, more Respect, than the Constitution barely requires. Whoever submits to more, voluntarily, falls into the basest *Vassalage*. We should always remember, that we are FREE; and that it is our Duty, to preserve that Freedom, in every Instance, and to hand it entire to Posterity: And this Freedom, chiefly, consists, in doing every thing we list, consistent with, or necessary to, the general good of Society. Every bad Man, however dignified with Pompous Titules, is a Reproach, nay, an Enemy, to Society. And every Man, that countenances him, or, even that does not, as much, as in him lies, upon all Occasions, oppose him, is involved in his Guilt, and accessary to every Evil it brings on the State.

As too high an Estimation of Titules of Honor, and a servile, awful Reverence paid Men in high Station, ever tend to *Slavery*, I judged it not improper to give you a sketch of the real Honor and Dignity of Peerage, that you may be able to avoid all extremes. Let not the resplendent *Virtues* of the present Nobles, excite in you, too great a Reverence, or a Desire for the Office. Remember, that the Time was, when evil Counselors taught Kings to grant Titules of Honor, as the *Wages* of *Iniquity*, instead of the *Reward* of *Virtue*; when some great, bad Men, were forced to take upon them, *Peerage*, by the *Commands* of the *Crown*; and when some others gave *Opposition* to the Measures of the Ministry, in the House of Commons, untill their vain Ambition was gratified, by a call to the *upper-House*. Though we may have no Reason to apprehend, that such Men, or the Descendants of such, could gain, or enjoy Honors, under our present happy Government; yet, if in any future time, through the Frailty of human Nature, or the *Craft*, or *Perfidy*, of evil Ministers, the *Crown* should be induced to confer *Spiritual*, or *Temporal* Honors on base, wicked Men; to *Masque* Prostitutes, or to *legitimate* the *Illegitimate*, are we to bend the Knee, and Reverence them? Or to Desire such Preferment, on the like Terms? God forbid! Let such be *honorable*. Let us be FREE.

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It is one of the Principles of every despotic Government, to raise the Power and Dignity of the Nobles, and to deprecate the Commonality. But, if our Nobles should ever gain the Ascendant over our Commons, we may expect, and, indeed, deserve, no better Fate, than that of Denmark; which was, not long since, as Free a State as ours; till the Peasants, or Commons, unable to support, under the Tyranny of the Lords, were forced to yield up, or betray their Legislative Power, into the Hands of the Prince, who thereby became Arbitrary. To avoid which, an exact Balance is to be always maintained.

A TEMPORAL Lord loses his Name and Sir-name, at his Creation, and takes in Lieu thereof, his Titule. A Spiritual Lord, changes his Sir-name for that of his Bishoprick. You are to call the one *Right Honorable*, the other, *Right Reverend*, and both, *Lord*. But, beyond the Appellation, you are to Honor the one, and to Revere the other, in their private Capacities, only as their intrinsic Virtue Demands: Ever remembering, that every Degree of Adulation, is a Degree of Slavery.

LET not, then, the lofty Titules of any Man awe, or influence you to do any Degree of Evil. The only Power Peers have, is, to do good. When they Act upon other Principles, they, as well, as the first Estate, degrade themselves. We acknowledge no Power, in our State, that may be extended to the Annoyance of any, but Evil doers: So that while we continue *Virtuous*, we continue FREE. To contribute to which, is the most ardent Desire of,

Your most Sincerely affectionate

Brother, and Fellow-Citizen,

Dublin Nov.

most faithful Servant,

C. Lucas



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